

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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JERRY MASSEY,

Plaintiff,

9:18-cv-483 (BKS/TWD)

v.

H. GRAHAM,

Respondent.

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**Appearances:**

*Plaintiff pro se:*

Jerry Massey  
15-B-1907  
Auburn Correctional Facility  
P.O. Box 618  
Auburn, NY 13021

*For Defendant:*

Letitia James  
Attorney General for the State of New York  
Michelle Elaine Maerov  
28 Liberty Street  
New York, NY 10005

**Hon. Brenda K. Sannes, United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

On April 20, 2018, Plaintiff pro se Jerry Massey filed a petition seeking a writ of habeas corpus under 28 U.S.C. § 2254 challenging his conviction, following a guilty plea, of burglary in the second degree. (Dkt. No. 1). On September 7, 2018, Defendant filed an answer, accompanied by the state court records related to the matter. (Dkt. Nos. 6-8). Petitioner filed a traverse on October 5, 2018. (Dkt. No. 10). This matter was assigned to United States Magistrate Judge Therese Wiley Dancks who, on August 20, 2021, issued a Report-Recommendation

recommending that Petitioner's petition be denied and dismissed, and that no certificate of appealability be issued. (Dkt. No. 13). Magistrate Judge Dancks advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (Dkt. No. 13, at 15). No objections to the Report-Recommendation have been filed.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation.

For these reasons, it is

**ORDERED** that the Report-Recommendation (Dkt. No. 13) is **ADOPTED**; and it is further

**ORDERED** that the Petition is **DENIED** and **DISMISSED**; and it is further

**ORDERED** that no certificate of appealability ("COA") is issued because Petitioner has failed to make "a substantial showing of the denial of a constitutional right" as required by 28 U.S.C. § 2253(c)(2). Any further request for a COA must be addressed to the Court of Appeals (Fed. R. App. P. 22(b)); and it is further

**ORDERED** that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: September 15, 2021  
Syracuse, New York

  
**Brenda K. Sannes**  
U.S. District Judge